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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,666	11/26/2003	Glenn F. Jorgensen	09797042-0021	8782
26263	7590	05/06/2005		
SONNENSCHEIN NATH & ROSENTHAL LLP P.O. BOX 061080 WACKER DRIVE STATION, SEARS TOWER CHICAGO, IL 60606-1080			EXAMINER BRINSON, PATRICK F	
			ART UNIT 3754	PAPER NUMBER

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/723,666	JORGENSEN, GLENN F.
	Examiner	Art Unit
	Patrick F. Brinson	3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-10, 19 and 20 is/are allowed.
- 6) Claim(s) 11, 12 and 15-17 is/are rejected.
- 7) Claim(s) 13, 14 and 18 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11, 12 and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 6,511,341 to **Finona et al.**

The patent to **Finona et al.** discloses a device including an insert member (120) having a first threaded end portion to be received within member (93) and a drive portion (126) configured to receive a torque applying tool in a rotationally driving manner, and a torque limiting region (140) located in the insert member to limit an amount of torque the drive portion can transmit to the first threaded end portion, as recited in claim 11. The drive portion including a substantially cylindrical extension formed on the insert member, as recited in claim 12, and having an recess for receiving the torque applying tool, as recited in claim 15. The cylindrical portion comprises a reduced diameter, thus forming a weakened portion that forms the torque limiting region, as recited in claims 16 and 17. The insert of **Finona et al.** is not specifically disclosed as being utilized with a tube plug, however, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be

employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations.

2. Claims 11, 12, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S 5,042,679 to **Crowson et al.**

The patent to **Crowson et al.** discloses a device including an insert member (32) having a first threaded end portion (34) to be received within member (12) and a drive portion (36) configured to receive a torque applying tool in a rotationally driving manner, and a torque limiting region (38) located in the insert member to limit an amount of torque the drive portion can transmit to the first threaded end portion, as recited in claim 11. The drive portion including a substantially cylindrical extension formed on the insert member, as recited in claim 12. The cylindrical portion comprises a reduced diameter, thus forming a weakened portion that forms the torque limiting region, as recited in claims 16 and 17. The insert of **Crowson et al.** is not specifically disclosed as being received within a tube plug, however, it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Beneker et al., Cunningham, Martin '564 and

'943 and Meulendyk are all pertinent to Applicant's invention in disclosing plug devices having frangible portions that break in response to tensile stress. The patents to Jorgenen '547, '851, '394, Klahn, Haberman et al., Keating, Snyder et al., and Epstein are all pertinent to Applicant's invention in disclosing tube plugs having housings and inserts that are advanced within the housing by rotational, torque applying tools.

Allowable Subject Matter

4. Claims 1-10, 19 and 20 are allowed.
5. Claims 13, 14 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Patrick F. Brinson** whose telephone number is (571) 272-4897. The examiner can normally be reached on M-F 7:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Michael Y. Mar** can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patrick F. Brinson
Primary Examiner
Art Unit 3754

P. F. Brinson
May 2, 2005